

WEST VALLEY CITY, UTAH

ORDINANCE NO. 12-44

Draft Date: 8/21/2012
Date Adopted: 11/27/2012
Date Effective: 12/06/2012

**AN ORDINANCE ENACTING CHAPTER 32 OF TITLE 7,
LAND USE DEVELOPMENT AND MANAGEMENT ACT,
OF THE WEST VALLEY MUNICIPAL CODE
REGARDING RETAIL TOBACCO SPECIALTY
BUSINESSES.**

WHEREAS, the 2012 General Session of the Utah State Legislature enacted House Bill 95, “Retail Sale of Tobacco Products,” which restricts the location of retail tobacco specialty businesses;

WHEREAS, West Valley City wishes to amend its ordinances to reflect these changes in State law regarding retail tobacco specialty businesses;

WHEREAS, West Valley City desires to enact Chapter 32 of Title 7 of the West Valley City Municipal Code regarding the location of retail tobacco specialty businesses; and

WHEREAS, the City Council of West Valley City, Utah, does hereby determine that it is in the best interests of the health, safety, and welfare of the citizens of West Valley City to enact Chapter 32 of Title 7 of the West Valley City Municipal Code;

NOW, THEREFORE, BE IT ORDAINED by the City Council of West Valley City, Utah, as follows:

Section 1. Repealer. Any provision of the West Valley City Municipal Code found to be in conflict with this Ordinance is hereby repealed.

Section 2. Enactment. Chapter 32 of Title 7 of the West Valley City Municipal Code is hereby enacted as follows:

TITLE 7
LAND USE DEVELOPMENT AND MANAGEMENT ACT

Chapters:

- 7-1 General Provisions
- 7-2 Supplementary and Qualifying Regulations
- 7-3 Planning Commission
- 7-4 General Plan
- 7-5 Zoning
- 7-6 Zones and Districts
- 7-7 Conditional Uses
- 7-8 Home Occupation
- 7-9 Off-street Parking Requirements
- 7-10 Overpressure Zone
- 7-11 Mobile Home Parks
- 7-12 Conveyance of Easements along Jordan River
- 7-13 Standards for Landscaping along High-image Arterial Streets
- 7-14 Design and Development Plan Review
- 7-15 Sexually-oriented Businesses
- 7-16 Residential Facilities for Elderly Persons
- 7-17 Residential Facilities for Persons with a Disability
- 7-18 Board of Adjustment
- 7-19 Subdivision
- 7-20 Enforcement
- 7-21 Airport Overlay Zone
- 7-22 Overlay Zones
- 7-23 Wireless Communication Facilities
- 7-24 Reserved
- 7-25 Agriculture Protection Areas
- 7-26 Repealed
- 7-27 Street Naming and Addressing
- 7-28 Water Efficient Landscape
- 7-29 Vehicle Recycling Facilities, Towing and Impound Yards, Outside Storage Facilities
- 7-30 General Restrictions for Food Vending Units
- 7-31 Alternative Energy Systems Ordinance
- 7-32 Retail Tobacco Specialty Businesses

CHAPTER 7-32

RETAIL TOBACCO SPECIALTY BUSINESSES

Sections:

7-32-101. Definitions.

6 7-32-102. Proximity Requirements

7 7-32-103. Exemptions.

8
9 **7-32-101. DEFINITIONS.**

10 (1) As used in this Chapter:

11 (a) “Community Location” means:

12 (i) a public or private kindergarten, elementary, middle, junior high, or high
13 school;

14 (ii) a licensed child-care facility or preschool;

15 (iii) a trade or technical school;

16 (iv) a church;

17 (v) a public library;

18 (vi) a public playground;

19 (vii) a public park;

20 (viii) a youth center or other space used primarily for youth oriented activities;

21 (ix) a public recreational facility; or

22 (x) a public arcade.

23 (b) “Retail Tobacco Specialty Business” means a commercial establishment in which:

24 (i) the sale of tobacco products accounts for more than 35% of the total annual
25 gross receipts for the establishment;

26 (ii) food and beverage products, excluding gasoline sales, is less than 45% of the
27 total annual gross receipts for the establishment; and

28 (iii) the establishment is not licensed as a pharmacy under Title 58, Chapter 17b,
29 Pharmacy Practice Act.

30 (c) “Tobacco product” means:

31 (i) any cigar, cigarette, or electronic cigarette as defined in Utah Code Annotated
32 Section 76-10-101;

33 (ii) a tobacco product as defined in Utah Code Annotated Section 59-14-102 ,
34 including:

35 (A) chewing tobacco; or

(B) any substitute for a tobacco product, including flavoring or additives to tobacco; and

(iii) tobacco paraphernalia as defined in Utah Code Annotated Section 76-10104.1.

7-32-102. PROXIMITY REQUIREMENTS.

(1) (a) A Retail Tobacco Specialty Business shall not be located within:

(i) 1,000 feet of a Community Location;

(ii) 600 feet of another Retail Tobacco Specialty Business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (1)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the Retail Tobacco Specialty Business to the nearest property boundary of the Community Location, or agricultural or residential use, without regard to intervening structures or zoning districts.

7-32-103. EXEMPTIONS.

(1) (a) In accordance with Subsection (1)(b), a Retail Tobacco Specialty Business that has a business license and is operating lawfully in the City on or before May 8, 2012, is exempt from the zoning requirements in this Chapter.

(b) A Retail Tobacco Specialty Business may maintain an exemption under Subsection (1)(a) if:

(i) the business license is renewed continuously without relapse or permanent revocation;

(ii) the retail tobacco specialty business is not closed for business or otherwise suspends the sale of tobacco products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or its business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including zoning ordinances, building codes, and the business license issued prior to May 8, 2012.

Section 3. Severability. If any provision of this Ordinance is declared to be invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.

Section 4. Effective Date. This Ordinance shall take effect immediately upon posting in the manner required by law.

PASSED and APPROVED this 27th day of November, 2012.

WEST VALLEY CITY

MAYOR

ATTEST:

CITY RECORDER